IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

CRP.No. 371 of 2000(G)

AGAINST THE ORDER IN IA 16/99 IN
AA.155/1984 of LAND TRIBUNAL, OTTAPALAM
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REVN. PETITIONERS/APPELLANTS:
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1. PONNUMANI ALIAS BALASUBRAMANIAN.

2. BABY ALIAS KOMALAKUMARAN.

3. UNNIKUTTAN ALIAS JAYAGOPALAN.

4. SARASWATHI ALIAS VILASINI AMMA.

5. SUKUMARI.

6. PRABHAVATHI.

7. SUMATHY.

8. GOVINDAN.

9. SARALA.

BY ADV. SRI.K.MOHANAKANNAN

RESPONDENTS/RESPONDENTS:
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1. GOVINDANKUTTY NAIR,
S/O.LATE VADAKKE VILAMBATH
NARAYANAN NAIR,
VADAKKE VILAMBATH HOUSE,
KALLEPPULLY, PALAKKAD.

2. RUGMANI RAJAGOPALAN,
-DO- -DO- -DO-.

BY ADV. SRI.K.G.BALASUBRAMANIAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P. NO.724/2000 IN C.R.P. NO.371/2000

CLOSED.

SD/-

6.9.07 M.N.KRISHNAN, JUDGE

/TRUE COPY/

P.A. TO JUDGE

JP

M.N.KRISHNAN, J

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C.R.P. No.371 OF 2000

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Dated this the 6th day of September 2007

ORDER

This revision petition is preferred against the order of the Appellate Authority(LR), Thrissur in dismissing IA No.16/1999 in AA No.155 of 1984. A perusal of the order of the Appellate Authority would reveal that the Land Tribunal had passed a combined order in O.A.No.12498 of 1975 and R.C.No.10 of 1978 which arose on account of a reference by a Civil Court in O.S.No.113 of 1976 of the Munsiff's Court, Palakkad. After reference the Munsiff disposed of the case and thereafter the Sub Judge also disposed of the matter as A.S.No.47 of 2006 and it is submitted that S.A.No.503 of 1991 is pending before this court. It is true that O.A.No.12498/1975 arises out of a proceeding under Section 72 of the K.L.R.Act and an appeal may lie under Section 102 of the K.L.R.Act. But, when the disputed question is the subject matter of a civil litigation and the civil court has resorted to refer the matter to the Land Tribunal and a finding has been entered into and the matter has been challenged before the appellate court as well, then there is jurisdiction for the civil court to

decide the question of tenancy raised by the parties. Or, in other words, precisely it is the correctness of the finding of the Land Tribunal which is appreciated by the first appellate court is challenged in the second appeal, i.e. pending consideration. So, when S.A.No.503/1991 is disposed of it will conclude the right of parties and the said decision will be binding on both the parties. There is no point in entertaining a parallel appellate remedy, that too, only by the appellate authority when the matter is pending consideration before this court in the second appeal.

I do not find any ground to interfere with the decision rendered by the appellate authority. But, I make it clear that the dismissal of the appeal will not in any way affect the right, if this court holds otherwise in the second appeal pending before it. Or, in other words, the dismissal of the C.R.P. shall not operate as a bar in considering that question in a proceeding pending before this court.

C.R.P is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-